

REMARKS/ARGUMENTS

The Examiner has delineated the following inventions as being patentably distinct:

Group I, claims)-18, drawn to a mixture for preparing transparent plastics.

Group II, claims 19-24, drawn to a transparent plastic.

Group III, claim 25, drawn to a method of producing an optical lens.

Group IV, claims 26 and 27, drawn to an optical lens and an ophthalmic lens

The Examiner further required the election of a single species. Accordingly,

Applicants elect Group I and the species

R^1 and R^2 from each of formula (I) and (II)

R, R^9 and Y

for the purpose of examination. Claims 1-18 read on the elected invention.

The claims of Groups I-IV are integrally linked as compounds method of preparing said compounds and the use thereof.

Restriction is only proper if the claims of the restricted groups are independent or patentably distinct and there would be a serious burden placed on the Examiner if restriction is not required (M.P.E.P. § 803). The burden of proof is on the Examiner to provide reasons and/or examples to support any conclusions that the claims of the restricted groups are patentably distinct.

The claims of Groups I-IV are related as product and method of use thereof, and should be examined together, especially wherein the sole disclosed utility of the product is that disclosed in the specification. Compositions and the use thereof should be examined together. It is a technical relationship that defines the contribution which each of the Groups taken as a whole makes over the prior art.

In chemical cases a specified group of materials which do not necessarily belong to an otherwise class can be claimed together using "Markush" practice. Markush practice

sanctions claiming together operable substances which could not be defined by generic language but which nevertheless have a community of chemical or physical characteristics. They need only possess at least one property in common which is mainly responsible for their function in the claimed relationship. The same utility in a generic sense suffices. In the instant application all the claims have the basic nucleus of compounds (I) and (II) of Claim 1.

The Examiner argues that Groups I-IV do not relate to a single general inventive concept under PCT Rule 13.1 and 13.2 because they lack the same or corresponding technical feature. Products and process for producing said product and the use thereof are related inventions under 37 C.F.R. § 1.475(b) and unity of invention between the Groups exists.

Applicants respectfully traverse on the additional groups that the Office has not shown that a burden exists in searching the entire application.

Further, the M.P.E.P. § 803 states as follows:

“If the search and examination of an entire application can be made without a serious burden, the Examiner must examine it on the merits, even though it includes claims to distinct or independent inventions.”

Applicants request that if the elected invention (Group I) is found allowable withdrawn Groups II-IV be rejoined.

Divisional application filed thereafter claiming the non-elected species should not be subject to a double-patenting ground of rejection 35 U.S.C. § 121, In re Joyce (Comr. Pat. 1957) 115 USPQ 412.

Applicants submit that the above-identified application is now in condition for examination on the merits, and an early notice of such action is earnestly solicited.

Respectfully submitted,

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